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LARRY SLUTSKY, WENDY SLUTSKY AND  
CLAYTON SLUTSKY

Plaintiffs,

-vs-

KIM GUADANDO in her individual and  
official capacity and Successors, WILLIAM  
FRASER in his individual and official capacity  
and Successors, MONMUOTH COUNTY  
SHERIFF'S OFFICE, MONMOUTH COUNTY  
CORRECTIONAL INSITUTION, JOHN  
AND/OR JANE DOES

Defendants.

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

CIVIL ACTION NO.: 10-5331

CIVIL ACTION

**ANSWER TO  
PLAINTIFF'S AMENDED  
COMPLAINT**

Defendants, Kim Guadando, William Fraser, Monmouth County Sheriff's Office and  
Monmouth County Correctional Institution by way of Answer to the plaintiffs' Amended  
Complaint says:

**PARTIES**

1. Admitted.
2. Neither admitted nor denied, unknown as to defendants.
3. Neither admitted nor denied, unknown as to defendants.
4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted.

**NATURE OF CLAIM**

8. Admitted that Clayton Slutsky was incarcerated at the Monmouth County Correctional Institution over the period of Sunday, October 19, 2008 to Wednesday, 22, 2008. Otherwise denied.

9. Admitted that Clayton Slutsky was under the care and supervision of Monmouth County Correctional Institution correction officer and staff. Otherwise denied.

10. Denied.

**JURISDICTION**

11. Admitted.

**NOTICES OF CLAIM**

12. Admitted.

**FACTUAL ALLEGATIONS**

13. Neither admitted nor denied; unknown to defendants.

14. Neither admitted nor denied; unknown to defendants.

15. Neither admitted nor denied; unknown to defendants.

16. Admitted that Clayton Slutsky was charged with “luring.” Otherwise denied.

17. Neither admitted nor denied; unknown to defendants.

18. Denied.

19. Denied.

20. Neither admitted nor denied; unknown to defendants.

21. Neither admitted nor denied; unknown to defendants.

- 22. Denied.
- 23. Denied.
- 24. Denied.
- 25. Denied.
- 26. Neither admitted nor denied; unknown to defendants.
- 27. Neither admitted nor denied; unknown to defendants.
- 28. Neither admitted nor denied; unknown to defendants.
- 29. Neither admitted nor denied; unknown to defendants.
- 30. Neither admitted nor denied; unknown to defendants.
- 31. Neither admitted nor denied; unknown to defendants.
- 32. Neither admitted nor denied; unknown to defendants.
- 33. Denied.
- 34. Denied.
- 35. Denied.
- 36. Denied insofar as such violations did not occur.

**COUNT I**

- 37. See above responses.
- 38. Denied.
- 39. Denied.
- 40. Denied.
- 41. Neither admitted nor denied; unknown to defendants.
- 42. Denied.
- 43. Neither admitted nor denied; unknown to defendants.

**COUNT II**

44. See above responses.

45. Denied.

**COUNT III**

46. See above responses.

47. Neither admitted nor denied; unknown to defendants.

48. Neither admitted nor denied; unknown to defendants.

49. Neither admitted nor denied; unknown to defendants.

**COUNT IV**

50. See above responses.

51. Neither admitted nor denied; unknown to defendants.

52. Neither admitted nor denied; unknown to defendants.

53. Neither admitted nor denied; unknown to defendants.

**COUNT V**

54. See above responses.

55. Neither admitted nor denied; unknown to defendants.

56. Denied.

**COUNT Va.**

57. See above responses.

58. Denied.

59. Neither admitted nor denied; Plaintiff's statement is a legal conclusion and does not assert any factual claim or statement.

60. Denied.

61. Denied.

62. Denied.

63. Denied.

64. Denied.

65. Admitted that a part of the Monmouth County Correctional Institution's official policy it titled as alleged. Denied that same constitutes the entire policy and/or protocol of Defendants.

66. Admitted that the "POLICY" is as set forth in the Plaintiff's Amended Complaint.

67. Admitted.

68. Admitted.

69. Neither admitted nor denied; unknown to defendants.

70. Neither admitted nor denied; unknown to defendants as to Plaintiff's mental condition. Denied that Plaintiff was assaulted and/or threats were made against him.

71. Neither admitted nor denied; unknown to defendants as to Plaintiff's mental condition.

72. Admitted.

73. Neither admitted nor denied; unknown to defendants.

74. Neither admitted nor denied; unknown to defendants.

75. Neither admitted nor denied; unknown to defendants.

76. Denied.

77. Neither admitted nor denied; unknown to defendants.

78. Neither admitted nor denied; unknown to defendants.

79. Neither admitted nor denied; unknown to defendants.

80. Neither admitted nor denied; unknown to defendants.

81. Admitted that Plaintiff's State of New Jersey Mental Health Advance Directive designated Larry Slutsky and Wendy Slutsky as mental health care representative; otherwise denied.

82. Neither admitted nor denied; unknown to defendants.

83. Neither admitted nor denied; unknown to defendants.

84. Neither admitted nor denied that Plaintiff's Larry and Wendy Slutsky met with Charlene Donovan; unknown to defendants. Denied that any policy or mandate was ignored.

85. Neither admitted nor denied; unknown to defendants. Plaintiff's allegation call for legal conclusion not founded in fact.

86. Admitted.

87. Neither admitted nor denied; unknown to defendants.

88. Denied.

#### **COUNT VI**

89. See above responses.

90. Neither admitted nor denied; unknown to defendants.

91. Neither admitted nor denied; unknown to defendants.

92. Neither admitted nor denied; unknown to defendants.

93. Denied.

#### **COUNT VII**

94. See above responses.

95. Denied.

96. Neither admitted nor denied; unknown to defendants.

- 97. Neither admitted nor denied; unknown to defendants.
- 98. Denied.
- 99. Denied that such treatment existed.

**COUNT VIII**

- 100. See above responses.
- 101. Denied that such treatment existed.
- 102. Denied.

**COUNT IX**

- 103. See above responses.
- 104. Neither admitted nor denied; unknown to defendants.
- 105. Neither admitted nor denied; unknown to defendants.
- 106. Neither admitted nor denied; unknown to defendants.
- 107. Neither admitted nor denied; unknown to defendants.

**COUNT X**

- 108. See above responses.
- 109. Neither admitted nor denied; unknown to defendants.
- 110. Neither admitted nor denied; unknown to defendants.
- 111. Neither admitted nor denied; unknown to defendants.

**COUNT XI**

- 112. See above responses.
- 113. Neither admitted nor denied; unknown to defendants.
- 114. Neither admitted nor denied; unknown to defendants.

**COUNT XII**

- 115. See above responses.
- 116. Neither admitted nor denied; unknown to defendants.
- 117. Neither admitted nor denied; unknown to defendants.
- 118. Neither admitted nor denied; unknown to defendants.
- 119. Neither admitted nor denied; unknown to defendants.
- 120. Neither admitted nor denied; unknown to defendants.
- 121. Neither admitted nor denied; unknown to defendants.

**COUNT XIII**

- 122. See above responses.
- 123. Denied.
- 124. Denied.
- 125. Denied.
- 126. Denied that such treatment existed.
- 127. Denied.

**COUNT XIV**

- 128. See above responses.
- 129. Denied.
- 130. Neither admitted nor denied; unknown to defendants.
- 131. Neither admitted nor denied; unknown to defendants.

**COUNT XV**

- 132. See above responses.
- 133. Neither admitted nor denied; unknown to defendants.
- 134. Neither admitted nor denied; unknown to defendants.



135. Neither admitted nor denied; unknown to defendants.

**COUNT XVI**

136. See above responses.

137. Denied.

WHEREFORE defendants Kim Guadando, William Fraser, Monmouth County Sheriff's Office and Monmouth County Correctional Institution, demand judgment in their favor dismissing the Complaint with prejudice

**FIRST SEPARATE DEFENSE**

The Complaint fails to state a claim upon which relief may be granted

**SECOND SEPARATE DEFENSE**

Defendants were not guilty of any negligence, wrongdoing, breach of duty or misconduct that was the proximate or producing cause of any injuries or damages alleged by plaintiff.

**THIRD SEPARATE DEFENSE**

Any claims against answering defendants are barred by contributory negligence or should be mitigated by comparative negligence.

**FOURTH SEPARATE DEFENSE**

Any and all injuries were proximately caused by actions or negligence of plaintiff or by persons not under the control of these defendants.

**FIFTH SEPARATE DEFENSE**

Any and all injuries and damages were caused solely by the negligence of the plaintiff.

**SIXTH SEPARATE DEFENSE**

Any and all injuries and damages were caused solely by the intentional behavior of the plaintiff.

**SEVENTH SEPARATE DEFENSE**

Defendants performed each and every duty, if any, owed to the plaintiff.

**EIGHTH SEPARATE DEFENSE**

Plaintiff has not been deprived of any right, privilege, or immunity created or recognized by the United States Constitution pursuant to 42 U.S.C. §1983.

**NINTH SEPARATE DEFENSE**

The defendants named individually are entitled to qualified immunity in his or her personal capacity.

**TENTH SEPARATE DEFENSE**

The defendants are entitled to immunity as plaintiff has failed to allege an official policy or custom as the cause of the alleged constitutional violation.

**ELEVENTH SEPARATE DEFENSE**

Defendants neither took nor sanctioned any of the actions alleged by the plaintiff.

**TWELFTH SEPARATE DEFENSE**

Defendants acted in good faith in carrying out all duties.

**THIRTEENTH SEPARATE DEFENSE**

Any action or inaction on the part of the defendants was the result of the exercise of judgment or discretion vested in defendants within the meaning of the applicable law.

**FOURTEENTH SEPARATE DEFENSE**

Defendants acted in good faith without malicious intent in carrying out all duties.

**FIFTEENTH SEPARATE DEFENSE**

Defendants at all times acted reasonably, in good faith, and in accordance with all applicable laws of the United States, State of New Jersey, and local ordinances.

**SIXTEENTH SEPARATE DEFENSE**

While denying all liability, co-defendants were not acting as agents of these defendants at the time of the acts allegedly committed in the Complaint.

**SEVENTEENTH SEPARATE DEFENSE**

While denying all liability, co-defendants did not know and had no reasonable basis to know that co-defendants had the propensity to engage in the acts alleged in the Complaint.

**EIGHTEENTH SEPARATE DEFENSE**

All of the acts of defendants were performed in good faith and defendants are therefore entitled to qualified immunity.

**NINETEENTH SEPARATE DEFENSE**

Defendants are entitled to absolute immunity.

**TWENTIETH SEPARATE DEFENSE**

Plaintiff's claims are barred by the entire controversy doctrine.

**TWENTY-FIRST SEPARATE DEFENSE**

Plaintiff's claims are barred by the doctrines of estoppels, laches, waivere and/or unclean hands.

**TWENTY-SECOND SEPARATE DEFENSE**

Plaintiff's failed to take reasonable and necessary measures to mitigate damages.

**TWENTY-THIRD SEPARATE DEFENSE**

Defendants reserve their right to assert such other affirmative defenses as continuing investigation and discovery may indicate

**TWENTY-FOURTH SEPARATE DEFENSE**

Defendants had legitimate, nondiscriminatory reasons for all acts and omissions of which plaintiff complains.

**TWENTY-FIFTH SEPARTE DEFENSE**

Plaintiff has failed to exhaust all available administrative remedies.

**JURY DEMAND**

Please take notice that the defendant hereby demands a trial by jury as to all issues.

**O'DONNELL McCORD P.C.**  
Special County Counsel

By: /S/ LEVI J. KOOL, ESQ.  
LEVI J. KOOL, ESQ.

DATED: August 14, 2013